

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA

TO: THE BAR AND PUBLIC

The United States Bankruptcy Court for the Northern District of Indiana is seeking public comment concerning a proposed change to the Court's Local Rules. The change involves the following rule:

- B-4001-1 Relief from Stay in Chapter 13 Cases, *adding a new rule relating to relief from the automatic stay in Chapter 13 cases.*

The proposed amendment is available online at the court's website, <http://www.innb.uscourts.gov/>, or in hard copy at the clerk's office. Send comments and suggestions by **March 19, 2009**, to:

Christopher M. DeToro
Clerk of Court
United States Bankruptcy Court, Northern District of Indiana
401 South Michigan Street
South Bend, IN 46601-2365
(574) 968-2100

Dated: February 17, 2009

Proposed change to the local rules for the United States Bankruptcy Court for the Northern District of Indiana. New material is indicated by redline, and deleted material is indicated by ~~strikeout~~.

B-4001-1
Relief from Stay in Chapter 13 Cases

1 (a) If a confirmed chapter 13 plan provides for the surrender of property in which a creditor
2 has an interest, whether as a lienholder or as a lessor, the automatic stay is terminated upon
3 confirmation, and without the need for a further order of the court, to allow the creditor to
4 foreclose upon, repossess, or otherwise proceed *in rem* against that property. The surrendered
5 property will, nonetheless, remain property of the estate until it has been disposed of pursuant to
6 applicable non-bankruptcy law as a result of the creditor's proceedings unless the confirmed plan
7 specifically provides for its abandonment or the court enters a separate order of abandonment,
8 following an appropriate motion and notice to creditors.

9 (b) In a case under chapter 13, if the provisions of a plan provide for the surrender of
10 property in which a creditor has an interest, the court will consider a motion for relief from stay
11 and/or abandonment as to such property without holding a hearing, unless a party in interest files
12 an objection to the relief requested, provided that:

13 (1) The motion is titled "Motion for Relief from Stay and/or Abandonment Because Plan
14 Proposes to Surrender Property";

15 (2) Movant serves all creditors and parties in interest with a notice of the motion and the
16 opportunity to object thereto, containing the information required by Local Bankruptcy
17 Rule B-2002-2(c), and makes due proof thereof; and

18 (3) The deadline for filing objections to the motion is no less than fifteen (15) days after

service of the notice and no sooner than seven (7) days after the first date set for the
meeting of creditors held pursuant to section 341(a) of the United States Bankruptcy
Code.

The failure to comply with the requirements of sub-paragraphs (b)(2) and (b)(3) will constitute a
waiver of any time limits associated with ruling on the motion, including the time limits set forth
in 11 U.S.C. § 362(e).

(c) A motion for relief from stay and/or abandonment, other than a motion because a plan
proposes to surrender property, will be set for such proceedings as the court deems appropriate.